

REMARKS

Claims 10-18 and 20 are pending in the present application.

Claim Rejections-35 U.S.C. 103

Claims 10-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants' admitted prior art (APA) in view of the Ohuchi reference (U.S. Patent No. 6,107,164). This rejection is respectfully traversed for the following reasons.

STATEMENT CONCERNING COMMON OWNERSHIP

Applicants' representative respectfully submits that application U.S. Serial No. 10/718,549 and the Ohuchi reference (U.S. Patent No. 6,107,164) were, at the time the invention of application U.S. Serial No. 10/718,549 was made, owned by Oki Electric Industry Co., Ltd.

Applicants respectfully emphasize that in accordance with 35 U.S.C. 103(c) effective as November 29, 1999, subject matter developed by another which qualifies as "prior art" only under one or more subsections of 35 U.S.C. 102(e), (f) and (g) is not to be considered when determining whether an invention sought to be patented is obvious under 35 U.S.C. 103, provided that the subject matter and the claimed invention were commonly owned at the time the invention was made. **Since the Ohuchi patent and the present application were commonly owned at the time the**

invention of the present application was made, the Ohuchi patent should not in this case be considered as prior art under the provisions of 35 U.S.C. 102(e).

Applicants respectfully submit that in view of the Examiner's acknowledgement that the Ohuchi reference is applicable only under 35 U.S.C. 102(e), the Ohuchi reference has thus been effectively removed as statutory prior art. Accordingly, this rejection, insofar as it may pertain to claims 10-18, is improper for at least the above reasons and should thus be withdrawn.

Conclusion

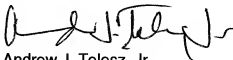
The Examiner is respectfully requested to reconsider and withdraw the corresponding rejection, and to pass the claims of the present application to issue, for at least the above reasons.

In the event that there are any outstanding matters remaining in the present application, please contact Andrew J. Telesz, Jr. (Reg. No. 33,581) at (571) 283-0720 in the Washington, D.C. area, to discuss these matters.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0238.

Respectfully submitted,

VOLENTINE & WHITT, P.L.L.C.

A handwritten signature in black ink, appearing to read "Andrew J. Telesz, Jr.", written in a cursive style.

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